SFA BILL ANALYSIS

Senate Fiscal Agency • Lansing, Michigan 48909 • (517) 373-5383



**Senate Bill 255 (Substitute S-2)**
**Sponsor: Senator Dick Posthumus**
**Committee: Commerce and Technology**

**Date Completed: 5-15-87**

## RATIONALE

In an effort to assist Michigan banks in expanding services and enhancing competitiveness, Public Act 177 of 1985 revised the Banking Code to permit reciprocal interstate banking, simplify procedures for the consolidation and acquisition of banks, authorize Michigan banks to make venture capital investments, and grant State banks various powers and privileges accorded to national banks. Senate Bill 258 of the current session would extend the Public Act 177 powers to savings and loan associations and grant associations further investment privileges. Some people feel that the investment practices that Senate Bill 258 would allow associations also should be allowed of banks to ensure competitiveness and parity among financial institutions. In addition, banks are permitted to invest in venture capital or the securities of a professional investor whose assets consisted mostly of venture capital, and associations are permitted to invest in "service corporations" that engage in activities determined by the Commissioner of the Financial Institutions Bureau to be "incidental" to the institutions' operations. Some contend that both types of institutions should be able to invest in service corporations and that activities allowed of such corporations should be authorized statutorily for all institutions, rather than approved individually by the Commissioner. Senate Bill 258 would make those specifications for savings and loan associations.

## CONTENT

**Senate Bill 255 (Substitute S-2) would amend the Banking Code to allow a bank to do all of the following:**

- **Invest up to 5% of its assets in a "service corporation" that engages in specified activities in which banks are not otherwise permitted to engage under the Code.**
- **Expand the categories of investments permitted for banks.**
- **Provide brokerage services.**
- **Invest up to 10% of its assets in real estate purchase and development.**

Service Corporations

Under the bill, a bank could invest up to 5% of its total assets (or a greater amount, if approved by the Banking Commissioner) in a "service corporation" that originates, invests in, sells, purchases, services or otherwise deals in loans of any type; makes investments in securities and in corporations or partnerships authorized under Title IX of the Federal Housing and Urban Development Act; and/or makes investments authorized under several specified sections of the Code and of the bill. Service corporations in which a bank would be permitted to invest, also could make investments in any of the following:

- Deposit accounts in an insured institution that was a stockholder of the corporation, although the service corporation could not receive any consideration other than interest at the current market rate.
- Tax exempt bonds of state governments or political subdivisions if the bonds were used to finance residential real property for family units, or tax exempt obligations of public housing agencies, if the bonds were used to finance housing projects with rental assistance subsidies.
- Financial options.
- Investments specified in the rules and regulations for Federal Savings and Loan Insurance Corporation-insured institutions and in specified sections of the Federal Homeowners' Loan Act.

A bank also could invest in a service corporation that performs any of the following services, primarily for financial institutions:

- Providing life, health, and casualty insurance for officers and employees of financial institutions as well as operating bonus plans and retirement benefit plans for those officers and employees.
- Servicing mortgages and land contracts; originating and servicing mortgage loans, mortgages, and land contracts on behalf of financial institutions, corporations, and State or Federal agencies or instrumentalities; or acting as escrow agent or depository for other escrow agents or fiduciaries for the holding of money as custodian or in trust for others.
- Performing credit analysis, appraisal, construction, loan inspection, and abstracting.
- Performing research, studies, and surveys.
- Developing and operating storage facilities for microfilm or other duplicate records.
- Advertising, brokerage, and other services to procure and retain both savings accounts and loans, but not pooling deposits or soliciting or promoting pooled deposits.
- Performing liquidity management, investment advisory and consulting services; or establishing, owning, leasing, operating, or maintaining electronic funds transfer terminals.
- Purchasing office supplies, furniture, and equipment.

In addition, a service corporation could be a corporation that performs any of the following services:

- Maintaining and managing real estate, including that used for agricultural purposes; owner's associations for condominium, cooperative, or planned unit development; or other rental real estate projects.
- Providing home ownership and financial counseling, relocation services, and real estate brokerage services.
- Acquiring real estate for prompt development or subdivision, for construction of improvements, for resale or leasing to others for such construction, or for use as manufactured home sites.

OVER

- Preparing local, State, or Federal tax returns (except for corporations that operate for profit).
- Performing fiduciary services or issuing notes, bonds, debentures, letters of credit, or other obligations or securities.
- Issuing credit cards and otherwise engaging in or participating in credit card operations.
- Acquiring personal property, including equipment, for the purpose of leasing the property or obtaining an assignments of a lessor's interest in a lease of the property.
- Providing data processing services.
- Providing brokerage services for the offer, sale, or purchase of securities or commodity contracts.
- Engaging in activities reasonably incident to those specifically granted in the bill, and such other activities as the Commissioner determined appropriate.

Expanded Investments

Without limiting the investment authority granted to banks under the Code, the bill would permit a bank to invest in either of the following:

- Shares or certificates in any open-end management investment company registered with the Securities and Exchange Commission under the Federal Investment Company Act, while the portfolio of the company is restricted by its investment policy, changeable only by vote of the shareholders, to investments eligible for liquidity pursuant to Federal Home Loan Bank Board regulations.
- Stock, bonds, or other obligations of any business and industrial development corporation (BIDCO) licensed and supervised by the State.

A bank could invest in other categories of assets that the Commissioner determined to be consistent with the purposes of the Code. Such investments would be subject to limitations as determined appropriate by the Commissioner.

Brokerage Services

Subject to applicable State or Federal law, the bill would permit a bank to provide brokerage services for the offer, sale, or purchase of securities or commodity contracts. ("Securities" would refer to that term as defined in the Uniform Securities Act.) The Commissioner could promulgate rules to clarify and enforce this provision.

Real Estate Development

The bill would allow a bank to invest up to 10% of its total assets in the purchase and development of real estate for sale or for the improvement of real estate by the construction of residential units for sale or rental purposes.

Proposed MCL 487.151d-487.151g

## FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

## ARGUMENTS

### Supporting Argument

The bill would carry on the revisions of Public Act 177 to the Banking Code by stimulating competition among financial institutions. The increased services and privileges that the bill would permit of banks would allow banks to respond to market demands more effectively. The flexibility that banks would gain as a result of the bill would facilitate more efficient delivery of services.

### Supporting Argument

The bill would permit banks to invest in "service corporations" as already allowed under the Savings and Loan Act for other financial institutions, and would duplicate the provisions of Senate Bill 258 that specify the types of activities that a service corporation could perform, thus eliminating any confusion and delay over procedures for approving an investment in a corporation that engages in a particular activity.

### Supporting Argument

The bill would allow banks to compete fairly not only with other financial institutions, but also with other types of businesses that recently have begun to offer financial services. For example, some insurers offer savings, investment, and loan services; some real estate brokers offer mortgage services; and even some department stores have established "financial centers".

Legislative Analyst: P. Affholter
Fiscal Analyst: L. Burghardt